

**REMARKS****AMENDMENTS TO THE SPECIFICATION**

The paragraph beginning on line 26, page 2 was amended to substitute the term "XXXX" with the assigned ATCC Deposit Number for the HBMYP2X7v clone "PTA-5898". Applicants point out to the Examiner that the date of deposit assigned to the HBMYP2X7v clone on the official ATCC Deposit Form (submitted herewith), April 2<sup>nd</sup>, 2004, is the same day as the official filing date of the present application, April 2<sup>nd</sup>, 2004. The HBMYP2X7v clone is specifically referenced on the ATCC Deposit Form (referenced as "HBMYP2X7V AD3" in the "Identification Reference by Depositor" section). In addition, the Attorney Docket No. for the present case, D0272, is specifically listed on the last line of the Form. In accordance with 37 CFR 1.804 (MPEP 2406.01), and in view of *In re Lundak*, 773 F.2d 1216 227 USPQ 90 (Fed. Cir. 1985), Applicants believe no new matter has been added.

Table I beginning on page 4, line 38 was amended to substitute the "XXXXXX" term with the assigned ATCC Deposit Number for the HBMYP2X7v clone "PTA-5898". Applicants point out to the Examiner that the date of deposit assigned to the HBMYP2X7v clone on the official ATCC Deposit Form (submitted herewith), April 2<sup>nd</sup>, 2004, is the same day as the official filing date of the present application, April 2<sup>nd</sup>, 2004. The HBMYP2X7v clone is specifically referenced on the ATCC Deposit Form (referenced as "HBMYP2X7V AD3" in the "Identification Reference by Depositor" section). In addition, the Attorney Docket No. for the present case, D0272, is specifically listed on the last line of the Form. In accordance with 37 CFR 1.804 (MPEP 2406.01), and in view of *In re Lundak*, 773 F.2d 1216 227 USPQ 90 (Fed. Cir. 1985), Applicants believe no new matter has been added.

**STATUS OF THE CLAIMS:**

Claims 1 to 20 were cancelled.

New Claims 21 to 40 were added.

Claims 21 to 40 are pending.

Support for the newly added Claims 21 to 40 may be found in the specification as originally filed. Specifically, support for new Claims 21 thru 25, and 38 may be found in original Claims 1, 5, 14, and 18, Figures 1A-B, and throughout the application as original filed. No new matter has been added.

Support for new Claims 26 thru 28 and 36 may be found in original Claims 3 to 4, 8 to 10, and 16 to 17, and throughout the application as original filed. No new matter has been added.

Support for new Claims 29 and 30 may be found on pages 66, 68, 72, 124-5, 164, Example 12, and throughout the application as original filed. No new matter has been added.

Support for new Claims 31 and 32 may be found on pages 48 to 52 of the specification, and throughout the application as original filed. No new matter has been added.


Support for new Claims 33 to 34, and 37 to 40 may be found on pages 29 to 34, and 59 to 68 of the specification, and throughout the application as original filed. No new matter has been added.

Support for new Claim 35 may be found in original Claim 1, on page 2 and in Table I on page 38 of the specification, and throughout the application as original filed. Applicants point out to the Examiner that the date of deposit assigned to the HBMYP2X7v clone on the official ATCC Deposit Form (submitted herewith), April 2<sup>nd</sup>, 2004, is the same day as the official filing date of the present application, April 2<sup>nd</sup>, 2004. The HBMYP2X7v clone is specifically referenced on the ATCC Deposit Form (referenced as "HBMYP2X7V AD3" in the "Identification Reference by Depositor" section). In addition, the Attorney Docket No. for the present case, D0272, is specifically listed on the last line of the Form. In accordance with 37 CFR 1.804 (MPEP 2406.01), and in view of *In re Lundak*, 773 F.2d 1216 227 USPQ 90 (Fed. Cir. 1985), Applicants believe no new matter has been added.

If any fee is due in connection herewith not already accounted for, please charge such fee to Deposit Account No. 19-3880 of the undersigned. Furthermore, if any extension of time not already accounted for is required, such extension is hereby petitioned for, and it is requested that any fee due for said extension be charged to the above-stated Deposit Account.

Respectfully submitted,

Bristol-Myers Squibb Company  
Patent Department  
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(609) 252-5289

  
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Stephen C. D'Amico  
Agent for Applicants  
Reg. No. 46,652

Date: November 16, 2006

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D'AMICO

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# ATCC

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## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Bristol Myers Squibb Company  
Attn: Martin Lewis  
5 Research Pky  
Wallingford, CT 06492

Deposited on Behalf of: Bristol Myers Squibb Company

Identification Reference by Depositor:

HBMYP2X7V AD3

**RECEIVED**  
**BMS PATENT LAW**

MAY 10 2004

Docketed Item ATCC

Due Date 8/3/04

Attorney (S.D.A.)

Patent Deposit Designation

PTA-5898

**ALREADY ON DOCKET**

The deposit was accompanied by:    a scientific description    a proposed taxonomic description indicated above.

The deposit was received April 2, 2004 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested April 13, 2004. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: May 5, 2004

cc: Stephan D'Amico

Ref. Docket or Case No.: D0272